



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/260,903	03/02/1999	TOSHIKUMI SATO	P/1905-80	7057

7590 03/20/2003

OSTOLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

[REDACTED] EXAMINER

GANTT, ALAN T

ART UNIT	PAPER NUMBER
2684	

DATE MAILED: 03/20/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Z

Office Action Summary	Application No.	Applicant(s)	
	09/260,903	SATO, TOSHIKUMI2	
Examiner	Art Unit		
Alan T. Gantt	2684		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 February 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 11, 13 and 15 is/are allowed.
- 6) Claim(s) 1-3, 9, 10, 12 and 14 is/are rejected.
- 7) Claim(s) 4-8 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>10</u> . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 2/10/03 have been fully considered. Applicant primarily argues that with the Wright reference there is no need for the "M data channels to dynamically correspond to one or a plurality said N pilot channels". Thus, there is no disclosure in Wright of pilot channels and data channels where the data channels are made to dynamically correspond to one or a plurality of N pilot channels. The examiner agrees with applicant's arguments.

Therefore, applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

New prior art, Karlsson et al., is introduced to replace the Wright reference that more closely relates to applicant's invention. Due to the broadness of several of applicant's claims as well as the lack of detail in these claims, references such as Karlsson can meet the claim limitations.

Claim Rejections - 35 USC § 102

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-3, 9, 10, 12, 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Karlsson et al.

Regarding claims 1-3, 9, 10, 12, and 14, Karlsson discloses a cellular sectorized CDMA system and method where each cell is covered by a number of antenna sectors and where each cell uses a number of different pilot channels. Two antenna sectors with a common overlapping region are not allowed to use the same pilot channel. At least one pilot channel is reused in one or more antenna sectors within one cell. The pilot channels can then be transmitted using the same antenna means as the traffic channels, thus having the same antenna pattern and the same channel characteristics. Coherent detection can then be performed in the mobile stations (page 9, lines 21-27). Thus, there are M data channels where M equals at least the number of sectors and N pilot channels where N equals at least two (less than the number of cell sectors). Since the pilot and traffic channels can be transmitted using the same antenna patterns there is a dynamic correspondence between the pilot and data channels.

Allowable Subject Matter

1. Claims 11, 13 and 15 allowed.

The following is a statement of reasons for the indication of allowable subject matter: The antenna aspects of the invention where the selecting of optimum patterns of the directivity patterns and the selecting of one pilot channel for each directivity pattern used for the data channel was neither found, suggested, nor made evident by the prior art.

2. Claim 4-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 4-8, the aspects of these dependent claims (transmission power control, correspondence between pilot channel and data channel being newly determined immediately before each and every time data channel, this correspondence can be changed during use of data channel, etc.) is used were neither found, suggested, nor made evident by the prior art.

Conclusion

Any inquiry concerning this communication from the examiner should be addressed to Alan Gantt at telephone number (703) 305-0077. The examiner can normally be reached between 9:30 AM and 6 PM within the Eastern Time Zone. The group FAX number is (703) 308-6306.

Any inquiry of a general nature or relating to this application should be directed to the group receptionist at telephone number (703) 305-4700.

Alan T. Gantt

March 6, 2003

Alan T. Gantt
ALAN THOMAS GANTT
PATENT EXAMINER